

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: RECALLED ABBOTT INFANT
FORMULA PRODUCTS LIABILITY
LITIGATION**

**Case No. 1:22-cv-04148
MDL No. 3037**

This Document Relates To: *All Actions*

Hon. Judge Matthew F. Kennelly

**DECLARATION OF DAVID SILVERMAN IN SUPPORT OF
PSC'S MOTION TO SUBSTITUTE A MEMBER OF THE
PLAINTIFFS' STEERING COMMITTEE**

COMES NOW YOUR DECLARANT, David Silverman who states the following: I respectfully submit this Declaration in support of PSC's Motion to Substitute a Member of the Plaintiff's Steering Committee, and my proposed appointment to the Plaintiffs' Steering Committee in Case No. 1:22-cv-04148, Multi-District Litigation ("MDL") No. 3037, or in such other role this Court deems appropriate. This Declaration is submitted with the consent and agreement of Co-Lead Counsel and the current members of the Plaintiffs' Steering Committee ("PSC").

1. I was born and raised in Miami, FL. and attended Law School in South Florida in 2012 before graduating in 2015. I am 33 years old, a husband and a father to 4 young children as well. I have been an attorney at Schlesinger Law Offices, P.A. since graduating and becoming a member of both the Florida and New Jersey State Bars in 2015.
2. The Schlesinger firm, which is based in Fort Lauderdale, FL., was founded over 60 years ago. Since the 1950s, the firm has been at the forefront on difficult tort cases. Notable achievements include: obtaining the nation's first plaintiff's verdict against Toyota, and recovering a \$90 Million judgment against General Motors, for knowingly failing to fix their respective vehicles' susceptibility to fuel-fed fires.
3. My firm is experienced in multi-district and other complex litigations. For example, Scott Schlesinger, the principal of the firm, was appointed Lead Counsel in *In re: Santa Fe Natural Prod. Liab. Litig.* (D.N.M.) MDL No: 2695. Mr. Schlesinger was appointed Lead Trial Counsel in the *JUUL Labs Product Cases (JCCP No. 5052)*, which parallels the MDL *In re: Juul Labs, Inc. Marketing, Sales Practices & Products Liability Litigation*, 3:19-md-2913-WHO (N.D. Cal.). Mr. Gdanski, of Schlesinger Law, too was appointed to the Plaintiffs' Steering Committee in the MDL. Schlesinger Law is also involved in the Pelvic Mesh and Metal-on-Metal Hip MDLs. Our attorneys are among

- the few that have actually tried MDL-remand cases in these matters. *See Bayless v. Boston Scientific & Coloplast*, 6:20-cv-831-RBD (M.D. Fla.); *Swintelski v. American Medical Systems, Inc.*, 20-cv- 60410-AMC (S.D. Fla.); *Shears v. Johnson & Johnson*, 1:20-cv-264-IMK (N.D. W. Va.); and *Nicholson v. Biomet Inc.* 3:18-cv-03057-CJW (N.D. Iowa) (\$3.6 Million verdict recently upheld by the 8th Circuit Court of Appeals, No. 21-2263, 2022 WL 3642917 (8th Cir. Aug. 24, 2022)).
4. Schlesinger Law’s work against the tobacco industry led to an \$11 Billion settlement for the state of Florida. That settlement then served as a catalyst and template for the Master Settlement Agreement later obtained by other states’ attorneys general. Juries have awarded Schlesinger’s *Engle* progeny tobacco litigation clients millions of dollars in compensatory and punitive damages, like in *Grossman*, \$38 Million; *Boatright*, \$35 Million; and *Landi*, \$20 Million. The firm has prosecuted toxic tort and automobile defect class actions, construction defect, food poisoning, financial fraud, and medical negligence cases – including numerous actions on behalf of injured infants and young children.
 5. The firm was also Co-lead Counsel in the “second generation” blood factor contamination cases, representing over 1,000 South American plaintiffs who contracted HIV and/or Hepatitis C from contaminated and defective blood factor products produced by defendant pharmaceutical companies. *In re Factor VIII or IX Concentrate Blood Prod. Liab. Litig.*, MDL No. 986 (N.D. Ill.).
 6. During my nearly 8 years with the Schlesinger Law firm, I have played substantial roles in major, catastrophic, multi-million-dollar injury cases in the areas of medical malpractice, tobacco litigation, product liability and personal injury. One example is *Frank v. The Celebration Source, Inc.*, No. 2015-CA-7393 03 (17th Jud. Cir. Broward County, FL) where my firm represented a young girl who was catastrophically injured on an amusement park ride. I was actively involved in that case from inception to conclusion, including personally deposing many experts and Corporate representatives, which resulted in a \$6.525 Million jury verdict, that included punitive damages.
 7. I have played a part in all aspects of litigation, including pre-suit investigations to case initiation, from propounding written discovery to taking and/or defending client, fact, expert and corporate representative depositions, from pretrial hearings to examining witnesses in jury trials. I also routinely participate in case strategy, help identify and retain expert witnesses, and prepare and argue substantive motions.
 8. With regards to the Abbott Formula Recall Litigation, I have worked closely with Cristina Sabbagh at the Schlesinger Law Firm in all of the firms’ Abbott Infant Formula cases since inception. Early on, I attended several meetings of plaintiffs’ lawyers who gathered to organize and move this litigation forward by developing uniform case strategies, many of which are currently in leadership positions. Further, in July of 2022, I participated in Harris Martin’s MDL Conference on Infant Formula and presented on the subject of similarities and differences of the Abbott formula recall with past contaminated food cases.

9. Since the formation of the MDL, I have actively participated and performed substantial work in all of my firms' cases and have played a principal role in both managing and communicating with all of our Abbott Infant Formula clients. I have also worked closely with the Plaintiffs' Steering Committee leadership as well as with Co-Lead counsel Sam Geisler and Stacy Hauer in performing common benefit assignments.
10. The Schlesinger firm filed some of the first cases in this litigation: *Ephraim v. Abbott Laboratories, Inc.* No. 22-cv-20516 (S.D. Fla.) which was filed on February 20, 2022, and *Laciste*, No. 22-cv-756-RBD (M.D. Fla.) which was filed on April 19, 2022. My firm has filed fourteen actions to date, represents dozens of additional plaintiffs whose cases will be filed, and is investigating other potential claimants. In addition, my firm is working with multiple health agencies to investigate the contamination of Abbot infant formula.
11. I recognize that while I am experienced, I have not yet been appointed to any steering or executive committees in an MDL. I believe I am at a unique point in my career where I can utilize what I have learned thus far to aid the young parents, such as myself, and, most importantly, their precious children, who need the care and legal acumen I will provide to navigate the rough terrain of this litigation.
12. My firm and I remain committed to this litigation. If selected to serve on the Plaintiffs' Steering Committee, we will continue committing the resources, money, personnel, and time necessary to prosecute and resolve all claims included in this MDL.
13. Based upon the foregoing, I respectfully seek this Honorable Court's appointment to Plaintiff's Steering Committee in this MDL.

Respectfully submitted,

Dated this 31th day of March, 2023

SCHLESINGER LAW OFFICES, P.A.

By: /s/David Silverman

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